

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM L. BILLINGHEIMER and DEPARTMENT OF THE AIR FORCE,
AIR FORCE RESERVES, HOMESTEAD AIR FORCE BASE, FL

*Docket No. 98-292; Submitted on the Record;
Issued August 3, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has more than a three percent permanent impairment of the left upper extremity for which he has received a schedule award.

In the present case, the Office of Workers' Compensation Programs has accepted that appellant, a driver/operator, sustained a dislocated left shoulder joint which required arthroscopy and subacromial decompression as a result of a fall in the performance of his federal employment on February 16, 1995.

On June 5, 1997 the Office requested that Dr. George Botelho, appellant's treating physician, evaluate the extent of appellant's permanent impairment of the left shoulder pursuant to the American Medical Association, *Guides to the Evaluation of Permanent Impairment*. On April 22, 1997 Dr. Botelho completed a form report in which he indicated that appellant had reached maximum medical improvement on that day; that appellant had retained internal rotation from 0 degrees to "T 10"; retained external rotation from 0 degrees to 30 degrees; retained forward elevation from 0 degrees to 150 degrees; retained abduction from 0 degrees to 170 degrees. He noted that appellant had no additional impairment of function due to weakness, atrophy, pain or loss of sensation and that he would recommend an impairment rating of seven percent of the "right" upper extremity.¹

On June 30, 1997 an Office medical adviser reviewed the case record and reported that Dr. Botelho's report would substantiate a three percent permanent impairment of the "right" upper extremity for loss of range of motion.

¹ The record indicates that appellant's injury-related conditions are of the left shoulder. Following Dr. Botelho's April 22, 1997 report, the record continued to refer to appellant's "right" shoulder.

The Office granted appellant a schedule award for a three percent loss of use of the “right” arm on July 15, 1997. The Office denied appellant’s request for merit review on August 7, 1997.

The Board finds that this case is not in posture for decision.

Section 8107 of the Federal Employees’ Compensation Act² provides that, if there is a permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function. For consistent results and to insure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants in the evaluation of permanent physical impairment. The A.M.A., *Guides* has been adopted by the Office as a standard for evaluating schedule losses and the Board has concurred in such adoption.³

The Board has long held that a medical opinion regarding permanent impairment which is not based upon the A.M.A., *Guides*, the standard adopted by the Office and approved by the Board as appropriate for evaluating schedule losses, was of little probative value in determining the extent of a claimant’s permanent impairment.⁴

In the present case, neither Dr. Botelho nor the Office medical adviser described how they utilized the A.M.A., *Guides* to evaluate the degree of appellant’s impairment. The Board notes that a cursory calculation of impairment pursuant to Tables 38, 41 and 44 of the A.M.A., *Guides* does not result in either the seven percent impairment determined by Dr. Botelho or the three percent impairment determined by the Office medical adviser. The Board also notes that the evidence of record substantiates that appellant underwent arthroscopy of the left shoulder with debridement of tendinitis of biceps tendon, debridement of degenerative fraying of the superior labrum and partial synovectomy, decompression with coracoacromial ligament release and repair of a partial rotator cuff tear on September 25, 1996, which the Office accepted was causally related to his employment injury. The Board notes that Table 27 of the fourth edition of the A.M.A., *Guides*, provides values for impairment of the upper extremity after arthroplasty of specific bones or joints, including the shoulder joint. The A.M.A., *Guides* instruct that motion impairments are derived separately and combined with arthroplasty impairment using the Combined Values Chart. Neither Dr. Botelho, nor the Office medical adviser commented as to whether appellant had any additional impairment resulting from the arthroscopy of his left shoulder.

This case is therefore to be remanded to the Office. The Office shall obtain further evaluation as necessary to determine the degree of permanent impairment of appellant’s left upper extremity, pursuant to the A.M.A., *Guides*. After such further development as necessary, the Office shall issue an appropriate decision.

² 5 U.S.C. § 8107.

³ *James J. Hjort*, 45 ECAB 595 (1994).

⁴ *James Kennedy, Jr.*, 40 ECAB 620 (1989).

The decisions of the Office of Workers' Compensation Programs dated August 7 and July 15, 1997 are hereby set aside and this case is remanded to the Office for further proceedings consistent with this opinion.

Dated, Washington, D.C.
August 3, 1999

Michael J. Walsh
Chairman

David S. Gerson
Member

Bradley T. Knott
Alternate Member